

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6213**

**BILL NUMBER:** SB 66

**NOTE PREPARED:** Dec 21, 2009

**BILL AMENDED:**

**SUBJECT:** Estate Administration.

**FIRST AUTHOR:** Sen. Zakas

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a spouse, widow, or widower of a child or stepchild of a transferor is a Class B transferee rather than a Class C transferee. It increases the amount of a transfer to a Class B transferee that is exempt from the Inheritance Tax from \$500 to \$50,000. It also increases the amount of a transfer to a Class C transferee that is exempt from the Inheritance Tax from \$100 to \$25,000. The bill specifies the requirements of an affidavit used to state that no Inheritance Tax is due after applying statutory exemptions to each transferee receiving property as a result of the decedent's death. It requires that Inheritance Tax returns include all taxable transfers known to the person filing the return.

The bill also makes various changes to statutes concerning the following: (1) the transfer on death of motor vehicles and watercraft; (2) probate notice requirements; (3) protected persons; (4) funeral declarations; (5) attorneys in fact; (6) nonprobate transferees; (7) the Transfer on Death Act; and (8) disclaiming interests in property.

(The introduced version of this bill was prepared by the Probate Code Study Commission.)

**Effective Date:** July 1, 2009 (retroactive); July 1, 2010.

**Summary of Net State Impact:** (Revised) This bill will decrease Indiana Inheritance Tax revenues beginning in FY 2012. The bill is expected to increase state General Fund expenditures on county Inheritance Tax replacement. The net state impact of the bill is summarized in the table below.

Impact on State General Fund	FY 2012	FY 2013 and after
Inheritance Tax Revenue	(\$25.9 M - \$32.0 M)	(\$25.9 M - \$32.0 M)
Additional County Replacement Expenditures	0	(\$0.13 M - \$0.17 M)
<b>Net General Fund Increase (Decrease)</b>	(\$25.9 M - \$32.0 M)	(\$26.1 M - \$32.2 M)

**Explanation of State Expenditures:** *County Inheritance Tax Replacement* - This bill could potentially increase expenditures from the state General Fund for county Inheritance Tax replacement by approximately \$131,000 to \$172,000 beginning in FY 2013. (Note: Replacement payments are made in the fiscal year following the fiscal year in which counties experience revenue shortages.) Replacement funding may vary depending on how much each county's base revenue differs from the amount guaranteed by current statute.

**Explanation of State Revenues:** (Revised) *Summary* - This bill is expected to decrease Inheritance Tax revenue by approximately \$25.9 M to \$32.0 M annually beginning in FY 2012.

**Background Information** - This bill provides that a spouse, widow, or widower of a child or stepchild of a transferor is a Class B transferee rather than a Class C transferee. The impact of this specific provision is indeterminable.

This bill also would increase the current exemption for Class B transferees from \$500 to \$50,000, and it would increase the current exemption for Class C transferees from \$100 to \$25,000. Class B transferees include sisters, brothers, nieces, nephews, daughters-in-law, and sons-in-law. Class C transferees include aunts, uncles, and all other transferees that are neither Class A or Class B. This increase in the exemptions will be effective July 2010 and will apply to any decedent whose death occurs after June 30, 2010. The Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early payment discount). The initial fiscal impact of increasing the exemption would occur in FY 2012.

The estimated fiscal impact of the exemption increases is based on the Office of Fiscal and Management Analysis (OFMA) Inheritance Tax database and the Revenue Technical Committee's FY 2011 forecast (published December 15, 2009). The forecast estimates FY 2011 Inheritance Tax at \$155 M. The estimated revenue loss assumes that Inheritance Tax revenues would remain relatively constant after FY 2011 absent the increased exemptions. The Inheritance Tax database is comprised of about 500,000 records of transferees receiving assets from a decedent who died between July 1, 1997, and June 30, 2008. Annual sample totals suggest that Class B beneficiaries account for about 30.2% of annual Inheritance Tax revenue (about \$46.7 M of the forecast amount), and Class C beneficiaries account for about 22.3% of annual Inheritance Tax revenue (about \$34.6 M of the forecast amount). About 99.2% of total Inheritance Tax collections are from Indiana residents. Since counties retain 8% of resident Inheritance Tax, annual county collections from Class B and C beneficiaries are estimated to total about \$7 M. Simulations with the sample returns suggest that the exemption increase could reduce revenue from Class B beneficiaries by about 36.0% to 44.7%, and for Class C beneficiaries by about 25.5% to 32.2%.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** (Revised) *Summary* - The increases in the Class B and C exemptions could potentially result in the net impact to counties as summarized in the table below.

<b>Impact on Counties</b>	<b>FY 2012</b>	<b>FY 2013 and after</b>
Inheritance Tax Revenue	(\$2.2 M - \$2.8 M)	(\$2.2 M - \$2.8 M)
Additional County Replacement Revenue	0	\$0.13 M - \$0.17 M
<b>Net Revenue Increase (Decrease)</b>	(\$2.2 M - \$2.8 M)	(\$2.1 M - \$2.6 M)

**Background Information** - Counties retain 8% of the Inheritance Tax collected on transfers made by Indiana residents, and are guaranteed a statutorily determined amount from the Inheritance Tax under P.L.254-1997. This legislation increased the Class A exemption to \$100,000, effective July 1, 1997, and required the state to annually transfer money from the state General Fund to counties to replace county Inheritance Tax revenue lost due to the exemption increase. The replacement provision guarantees that each county receive an amount of Inheritance Tax revenue equal to the five-year annual average amount of Inheritance Tax received by that county from FY 1991 to FY 1997, excluding the highest year and lowest year. The total annual guarantee to counties is approximately \$7.4 M, with replacement payments averaging about \$196,000 since FY 2000. The bill is estimated to reduce Inheritance Tax revenue to counties by about \$2.2 M to \$2.8 M annually beginning in FY 2012. However, the reductions in county Inheritance Tax are expected to increase additional Inheritance Tax replacement payments from the state General Fund totaling about \$131,000 to \$172,000 annually beginning in FY 2013. (Note: Replacement payments are made in the fiscal year following the fiscal year in which counties experience revenue shortages.)

**State Agencies Affected:** Department of State Revenue.

**Local Agencies Affected:** Counties.

**Information Sources:** *State Revenue Forecast* (December 15, 2009); OFMA Inheritance Tax database.

**Fiscal Analyst:** Jessica Harmon, 232-9854.